COMMONWEALTH OF MASSACHUSETTS
BEFORE THE
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications and Energy on its own Motion into Distributed Generation.	)	D.T.E. 02-38

COMMENTS OF
WESTERN MASSACHUSETTS ELECTRIC COMPANY

I. INTRODUCTION

On October 3, 2002, the Department of Telecommunications and Energy ("Department") directed Western Massachusetts Electric Company ("WMECO") and the other Massachusetts distribution companies to participate in a collaborative process to propose, for Department approval, interconnection standards and procedures for distributed generation ("DG"). As a result of that collaborative process, on May 16, 2003, the collaborative filed with the Department an interconnection tariff in which most, but not all, issues were agreed upon between the distribution companies and the DG cluster. Consensus was not reached with respect to the following issues[1]:

1. applicability of this process to Qualifying Facilities,
2. whether the interconnection agreement or the tariff is the prevailing document in a conflict between the two, and
3. the allocation of costs among the parties and cost adjustment procedures.

[1] All parties agreed on the timelines with the exception of RealEnergy.

On May 19, 2003, the Department issued a Request for Comments inviting all interested persons to file comments on the interconnection tariff. WMECO respectfully submits the following comments to address the issues that did not reach consensus in the collaborative process.

II. DISCUSSION

A. Applicability to Qualifying Facilities

The March 3, 2003 cover letter from the DG collaborative to the Department stated that the report was not intended to replace or change the regulations promulgated under 220 C.M.R. §§ 8.00, *et seq*. WMECO agrees with this position but believes that the result of the current process should be read to reform the language of 220 C.M.R. § 8.00, *et seq*. Any other resolution would negate a great deal of the work done by the collaborative. Therefore, WMECO believes that any ambiguity related to Qualifying Facilities should be resolved in favor of the tariff adopted in this proceeding.

220 CMR 8.00, *et seq.* was adopted to provide direction for the sale of power by Qualifying Facilities. These regulations define Qualifying Facilities as "small power producers and cogenerators that meet the criteria specified by FERC in 18 C.F.R. §§ 292.203(a) and (b)."[2] See 220 C.M.R. § 8.02. These regulations also discuss the terms

[2] 18 C.F.R. § 292.203 provides the following criteria for qualifying facilities.

> (a) Small power production facilities. Except as provided in paragraph (c) of this section, a small power production facility is a qualifying facility if it:
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> (1) Meets the maximum size criteria specified in § 292.204(a);
>
> (2) Meets the fuel use criteria specified in § 292.204(b); and
>
> (3) Meets the ownership criteria specified in § 292.206.
>
> (b) Cogeneration facilities. A cogeneration facility, including any diesel and dual-fuel cogeneration facility, is a qualifying facility if it:

and conditions for interconnection of Qualifying Facilities, and time frames for cost estimates, and inspections. See 220 C.M.R. § 8.04. The time frames were established in these regulations because there was no guidance in the interconnection process for Qualifying Facilities.

The Department opened this docket to resolve all issues related to DG. DG is a broad category and many DG projects may also be Qualifying Facilities. However, many other DG projects may not be Qualifying Facilities. The very purpose of this process is to establish a well-defined procedure for all DG providers and distribution companies to follow that is applicable to all sizes and types of DG proposed for distribution system interconnection. It is contrary to the entire collaborative effort to have one set of rules for the DGs that are Qualifying Facilities and another for those that are not. Such a result undermines the procedures that all the parties are working towards creating. WMECO believes that all DG providers should be held to the same timeframes and standards as that agreed upon during the collaborative process.

If the Department has concerns regarding 220 C.M.R. § 8.00, *et seq.*, then a rulemaking docket should be opened to bring those regulations into compliance with the tariff and agreed upon terms and conditions for interconnection. In its Order establishing the 220 C.M.R. 8.00, *et seq*. regulations, the Department recognized that it may have to

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(1) Meets any applicable operating and efficiency standards specified in § 292.205 (a) and (b); and

(2) Meets the ownership criteria specified in § 292.206.

(c) Hydroelectric small power production facilities located at a new dam or diversion. (1) A hydroelectric small power production facility that impounds or diverts the water of a natural watercourse by means of a new dam or diversion (as that term is defined in § 292.202(p)) is a qualifying facility if it meets the requirements of:

(i) Paragraph (a) of this section; and

(ii) Section 292.208.

take further action regarding interconnection issues in the future. Rulemaking to Revise 220 C.M.R. 8.00, *et seq.*, D.T.E. 99-38, at 5, n. 4 (1999).

B. Controlling Document

The collaborative disagreed on the issue of which document will control when a new tariff approved by the Department contains different terms than the tariff and the interconnection terms in place at the time an agreement is entered into with the DG.[3] The distribution companies believe long-standing Department policy regarding tariffs should be followed. Such policy dictates that when new tariff terms are approved, those new terms become binding on all relevant parties. The DG cluster has asserted that tariff changes that occur after the execution of the interconnection agreement should not be applicable to the relationship between the utility and the DG.

It is WMECO's experience that tariffs sometimes change over time. This is especially true for this type of tariff since DG, including DG interconnection, is an evolving process which can have significant impacts on system safety, reliability and power quality for other utility customers. Currently, once a tariff is amended that amendment is applicable to all customers taking service under the tariff. This means that all DG providers would be governed by the same tariff terms and conditions. This process is efficient, fair, and nondiscriminatory. On the other hand, locking in the terms of a tariff at the time an agreement is signed for the term of the agreement means that there could be innumerable effective DG tariffs. The tariff terms would all depend on the moment that the contract was signed. In WMECO's opinion this result would lead to confusion and is contrary to the rationale of having a tariff.

[3] The interconnection agreement is part of the proposed DG tariff and is attached as Exhibit A to that tariff.

The Department must recognize that the tariff approval process is not unilateral as the DG cluster would lead the Department to believe. DG providers have the ability to participate in the tariff approval process to protect their interests. DG providers, as many other entities that deal with regulated utilities have done, may opt to protect their interests by monitoring Department filings as part of the cost of doing business.

The Department should treat the DG tariff just like every other tariff – the current tariff terms must apply to everyone. If the DGs are concerned that utilities will be able to change the tariffs unilaterally in the future, the Department can merely point out that all such proposed changes must be noticed and give all parties a full and fair opportunity to comment. If the DGs wish simply to set their tariffs terms in stone and have no further dealings with the Department, the Department should remind them that the regulatory process is always evolving and that if the DGs wish to take advantage of their new opportunities that part of the price is a continued involvement with the regulatory system. DG providers have the ability to participate in the tariff approval process to protect their interests.

In sum, the DG cluster proposal is a radical departure from current Department practice. The DG cluster has not presented any justification for such a major change. Accordingly, in the interests of fairness to all customers, the DG cluster proposal should be rejected.

C. Cost Allocation and Adjustment Procedures

The collaborative was unable to agree on which party should bear the responsibility for certain costs, including cost adjustments. The DG cluster believes that the interconnecting customer should only be responsible for costs incurred by the

distribution companies as they relate to studies conducted and system modifications required solely for their facility's interconnection. The DG cluster believes that because system modifications may benefit other distribution customers, those customers should also be responsible for the costs incurred to upgrade the system. WMECO believes that this approach does not take into account costs which are incurred solely as a result of interconnection yet are necessary to ensure safe operation of the facility and interconnection to the distribution system.

WMECO firmly believes that DG customers should be treated in the same manner as all other distribution customers. Upgrades to the distribution system may not have been necessary, but are required to accommodate the DG interconnection. As such, other customers who received the upgrade could have continued to receive safe, reliable electric service on their system absent the DG, but the system was upgraded solely to accommodate the interconnection. The costs associated with the upgrade are incurred solely due to the proposed interconnection of DG. In those instances, neither WMECO nor those customers affected should be responsible for the upgrade costs. It is not equitable to hold other customers responsible for costs that they would not otherwise have been required to bear.

D. Timelines

The entire collaborative, with the exception of RealEnergy, agreed on the applicable time frames for interconnection. More specifically, RealEnergy dissented on the time frames applicable under the expedited and standard approval processes. The collaborative agreed upon a complete review of all screens, studies, and applications and for return of an executable agreement within 40 days under the expedited process without

supplemental review and within 60 days if supplemental review is necessary. RealEnergy has proposed accomplishment of these tasks within 25 and 40 days respectively. The collaborative also agreed upon a complete review of all screens, studies, and applications and for return of an executable agreement within 125 days if the customer goes directly to the standard process and within 150 days if the customer goes through the expedited process first. RealEnergy has proposed time frames of 65 and 80 days respectively for completion of these tasks.

WMECO believes the proposed timeframes should be viewed as a package covering all sizes of DG. The proposal affords an Interconnection Agreement turn-around-time of just 15 days for what are expected to be the vast majority of applications that will likely qualify for the simplified interconnection process. Additional time is proposed for processing expedited and standard applications. However, with additional experience over time and with on-going review of these procedures by the Collaborative, it is reasonable to expect that reductions in these initial timeframes may be appropriate.

RealEnergy's timeframes are completely unrealistic and are not based on any facts or studies sufficient to warrant their proposed expedition of the agreed-upon process. RealEnergy's proposal compromises the accuracy and thoroughness of the review process, which the collaborative acknowledged needed longer to complete. Since the entire collaborative, including all DG providers with the exception of RealEnergy, have agreed to time frames and RealEnergy cannot demonstrate how its proposed timeframes are feasible, the Department must reject RealEnergy's proposal and adopt the timeframes as agreed to by the collaborative. As experience is gained over time, the interconnection review processes could provide for reduced timeframes.

E. Meter Ownership

There has also been an issue raised with respect to meter ownership by DG customers. WMECO believes that this docket is not the proper forum for the resolution of this issue. On February 8, 2001, the Department issued a notice of investigation and opened a docket designed to develop generic terms and conditions for the installation and provision of advanced metering equipment by distribution companies. See D.T.E. 01-28, February 8, 2001 Notice of Investigation. That docket is currently still open and is the proper forum for resolution of all meter ownership issues.

III. CONCLUSION

Many issues were resolved between the parties in the DG collaborative. WMECO appreciates the opportunity to file comments with respect to the issues that were not resolved. For these issues, WMECO requests first that the Department establish policies that promote fairness amongst all classes of customers. Second, WMECO requests that the Department recognize that this collaborative process is designed to resolve all DG issues, including those of Qualifying Facilities as referenced in 220 C.M.R. 8.00, *et seq*. Third, WMECO recommends that the Department not depart from its long-standing practice regarding the applicability of tariffs to all customers receiving service pursuant to that tariff. Fourth, WMECO requests that the Department apply cost allocation procedures and adjustments consistent with current regulatory practice. Lastly, WMECO requests that the Department adopt the timeframes as agreed to by the collaborative as they best exemplify the collective thoughts of the group with respect to performing the necessary tasks for facilitation of interconnection.

Respectfully submitted,

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